

United States District Court
Northern District of California

UELIAN DE ABADIA-PEIXOTO, et al.,
Plaintiffs,
v.
U.S. DEPARTMENT OF HOMELAND
SECURITY, et al.,
Defendants.

Case No.: CV 11-04001 RS (KAW)
SECOND ORDER RE IN CAMERA
REVIEW

Defendant U.S. Department of Homeland Security submitted some additional information requested in the Court's January 7, 2013 order pertaining to the *in camera* review. (Dkt. No. 116.) The Government, however, failed to provide the date and time the August 2011 policy was first finalized, as requested in the Court's order.

The documents produced suggested that there was a restraints policy for asylum seekers that would be finalized on or about August 8, 2011. The Government only produced an email to Field Office Directors and Deputy Field Office Directors dated October 19, 2011 at 5:09 p.m. The policy was finalized before notification of the policy was sent via e-mail, so the Government is ORDERED to comply with the January 7, 2013 order to provide the date and time the August 2011 policy was finalized through the submission of a sworn declaration.

As to the Government's reluctance to produce Document No. 18314, the Court recognizes that this document is almost identical to Document No. 18318, which was determined to be subject to deliberative process privilege. The content sought to be protected could be interpreted as addressing either the unfinalized policy regarding restraints for asylum seekers, which is privileged, or the UNHCR Letter, which is not. Since the Government has already produced the Government's letter to UNHCR referenced in Document Nos. 18314 and 18318, the Court will not require the production of Document No. 18314 at this time.

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The Government shall comply with this order by February 8, 2013. Failure to comply may result in Document Nos. 18320 and 18345 being ordered produced without redaction.

IT IS SO ORDERED.

DATE: February 1, 2013

Kandis Westmore

KANDIS A. WESTMORE
United States Magistrate Judge

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